

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN, JAIPUR
BENCH, JAIPUR.

J U D G M E N T

S.B.CIVIL MISC. APPEAL NO.918/1996
(Mst.Rukmani Bai Vs. Mohan Singh)

DATE OF JUDGMENT : 13-04-2007

P R E S E N T

HON'BLE MR.JUSTICE R.S.CHAUHAN

Mr.Amit Sharma with Mr. J.P.Goyal , for the appellant.

Mr.V.S.Chauhan, for the respondents.

BY THE COURT:

This appeal arises out of the order dated 22.1.1996 passed by the learned Motor Accident Claims Tribunal (Addl. District Judge), Karauli whereby for the death of Jamuna Lal, the learned Tribunal has granted a compensation of Rs.88,400/- along with interest of 8% per annum. Hence this appeal for enhancement.

2. The brief facts of the case are that on 4.8.1993, at about 10.00 AM, Jamuna Lal was riding on his motorcycle bearing registration No.RJ-25/M-3499 from Gulab Bagh to the Power House where he was to deposit the electricity bill. As he reached Gulab Bagh, a bus, bearing registration, No.RRM-1972 was being driven by Mohan Singh, respondent before us, rashly and negligently. Consequently, the bus collided with the motorcycle. Resultantly,

Jamuna Lal sustained injuries on his head and he expired. His old mother, his widowed wife and his seven children filed the claim petition before the Tribunal. In support of their case, they examined as many as four witnesses and submitted seven documents. After considering the oral and documentary evidence, vide impugned award dated 22.1.1996, the learned Tribunal granted compensation as aforementioned.

3. Mr.Amit Sharma, learned counsel for the appellant has vehemently argued that the learned Tribunal has applied the multiplier of only 3, whereas multiplier of 13 should have been applied in the present case. Therefore, the very basis for calculating the compensation is misplaced.

4. On the other hand, Mr.V.S.Chauhan, learned counsel for the respondents has prayed that the multiplier of 13 has been given in Schedule II attached to the Motor Vehicle Act, 1988 ('the Act' for short)which was not applicable on the date of the accident. Therefore, the learned Tribunal has not erred in applying the multiplier of 3 instead of multiplier of 13. He further contended that since the income of the deceased was doubled, the multiplier of 3 is just and reasonable.

5. In rejoinder, the learned counsel for the appellant has

contended that although the Schedule-II did not come into force on the date of accident, but nonetheless, it had come into force during the pendency of the claim petition before the Tribunal. Therefore, the learned Tribunal should have used the schedule II as a guideline. Hence the multiplier of 3 applied by the learned Tribunal is very low.

6. We have heard the learned counsels for the parties, and have perused the impugned award.

7. Admittedly, on the date of accident, Schedule II attached to the Act had not come into force. However, the said schedule was in force on the date of passing of the award. Thus, the learned Tribunal should have used the schedule II as a guideline. A bare perusal of the impugned award shows that while applying the multiplier of 3, the learned Tribunal has not given any cogent reason for applying the said multiplier. According to the schedule II, for a person between age of 45 to 50, multiplier of 13 should have been applied. Therefore, there is no reason to show why the learned Tribunal has not adopted the multiplier of 13. However, the said multiplier could have been applied, only if the income of the deceased is not doubled.

8. Accordingly to the appellant, income of the deceased was

Rs.1200/- per month. Taking the income to be Rs.1200/- per month, deducting $\frac{1}{3}$ rd from it, the income of deceased would have been spent on his family is Rs.800/-. Without doubling the said income and while applying the multiplier of 13, the loss of dependency/compensation shall be calculated as under :

$$800 \times 13 \times 12 = 1,24,800/-$$

9. In the result, this appeal is allowed and the award dated 22.1.1996 is modified to the limited extent that the loss of dependency shall be enhanced from Rs.50,400/- to Rs.1,24,800/-. Rest of the award is confirmed. In case the any amount has been paid to the appellant by the respondents, same shall be adjusted in the enhanced amount. The learned Tribunal is directed to ensure that the remaining enhanced amount is paid to the appellant within a period of two months from the date of receipt of certified copy of this judgment.

R.S.CHAUHAN,J.

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